

**REPORT OF THE CHAIRMAN OF THE TRANSPORT AND HIGHWAYS
COMMITTEE****BUS LANE ENFORCEMENT****Purpose of the Report**

1. The purpose of this report is to seek approval to participate in joint arrangements for the provision of adjudication services for bus lane enforcement.

Information and Advice

2. On 21 March 2013 the Transport and Highways Committee agreed to enable the commencement of bus lane enforcement at Nuthall bus gate by setting the penalty charge and authorising associated advertising. The meeting also agreed to seek authorisation from Full Council to enter into a s101 agreement for the provision of adjudication services.
3. Authorities undertaking bus lane enforcement are required to participate in joint arrangements for adjudication services. Outside of London this is provided by the Bus Lane Adjudication Service Joint Committee (BLASJC) which is hosted by Cheshire East Council (from 1 April 2013). The administrative arrangements require that authorities nominate a representative to be a member of the joint committee and enter into an established Agreement under Section 101 of the Local Government Act 1972.
4. The Joint Committee does not take or influence decisions on individual cases but its purpose is to ensure the efficient provision of an adjudication service for all participating authorities, to manage the budgetary arrangements of the service and to oversee the provision of a fair and consistent Traffic Penalty Tribunal. These arrangements are the same as those for the joint committee which provides adjudication services for parking enforcement and of which the County Council is already a member. Further details are provided in Appendix 1, which sets out the Committees' purpose, Terms of Reference and Standing Orders as well as budgetary and administrative arrangements.
5. Due to the requirement to participate in and to appoint a member to represent the Council on the Joint Committee only Full Council is authorised to approve such arrangements.
6. It is usual for the representative member of the parking joint board to also be that of the bus lane joint board and meeting dates and venues coincide to facilitate this. The County Council continues to be a member of the parking adjudication joint committee (PATROL) and it is proposed that the Chairman of the Transport and Highways Committee should continue to be

the Council's nominated representative on that committee as well as becoming the representative on the bus lane joint committee (BLASJC).

7. There is no fee for joining the committee but all operational costs, including payment of adjudicators, is met from a levy on each Penalty Charge Notice issued. This is currently £0.60 as set by the Joint Committee for the period ending 31 March 2014. The cost of participation will be covered by the income arising from Penalty Charges.

Other Options Considered

8. As indicated above this is a requirement of the regulations governing bus lane enforcement and consequently there are no other options.

Reason/s for Recommendation/s

9. To enable bus lane enforcement to be carried out.

Statutory and Policy Implications

10. This report has been compiled after consideration of implications in respect of finance, the public sector equality duty, human resources, crime and disorder, human rights, the safeguarding of children, sustainability and the environment and those using the service and where such implications are material they are described below. Appropriate consultation has been undertaken and advice sought on these issues as required.

Implications for Service Users

The adjudication service provides the means by which motorists may formally appeal against penalty charge notices issued for alleged contraventions and have their case considered by an independent adjudicator.

Financial Implications

The business case indicates that enforcement will be self-financing within the first year.

RECOMMENDATION/S

- 1) That the County Council becomes a member of the Bus Lane Adjudication Service Joint Committee,
- 2) That the adjudication service costs be met from Penalty Charge Notice income,
- 3) That the Chairman of the Transport and Highways Committee continues to be the nominated representative member of the PATROL Adjudication Joint Committee,
- 4) That the Chairman of the Transport and Highways Committee be the nominated representative member of the Bus Lane Adjudication Service Joint Committee,
- 5) That the Group Manager Legal and Democratic Services is authorised to enter into a s101 agreement for the provision of adjudication services.

Councillor Richard Jackson
Chairman of the Transport and Highways Committee

For any enquiries about this report please contact:

Peter Goode – Traffic Manager Tel: 0115 9774269

Constitutional Comments (HD 3/04/13)

11. This decision falls within the authority of Full Council which is empowered to authorise participation in and nominations to Joint Committees.

Financial Comments (TMR 3/04/13)

12. The financial implications are set out in the report

Background Papers and Published Documents

Except for previously published documents, which will be available elsewhere, the documents listed here will be available for inspection in accordance with Section 100D of the Local Government Act 1972.

The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations 2005 – SI 2005 No. 2757

Provisional guidance on bus lane (including tramway) enforcement in England outside London – Department for Transport November 2005 (revised February 2008)

The Bus Lane Contraventions (Approved Local Authorities) (England) (Amendment) Order 2010 – SI 2010 No. 99

The Civil Enforcement of Parking Contraventions (County of Nottinghamshire) Designation Order 2008 – SI 2008 No. 1086

Report to Transport and Highways Committee – 21 March 2012

Form of Agreement for a Bus Lane Adjudication Service Joint Committee

Electoral Division(s) and Member(s) Affected

All

**PATROL (PARKING AND TRAFFIC REGULATIONS OUTSIDE LONDON)
ADJUDICATION JOINT COMMITTEE
&
BUS LANE ADJUDICATION SERVICE JOINT COMMITTEE**

Briefing Note for New Council Representatives

1. Introduction to the Traffic Penalty Tribunal

The Traffic Penalty Tribunal is an independent tribunal where impartial lawyers consider appeals by motorists and vehicle owners whose vehicles have been issued with:

- Penalty Charge Notices (or have been removed or clamped) by councils in England and Wales enforcing parking under the Traffic Management Act 2004.
- Penalty Charge Notices by councils in England undertaking civil bus lane enforcement under The Bus Lane Contraventions (Penalty Charges, Adjudication and Enforcement) (England) Regulations (2005 SI No 2757).

The principal objective of the Traffic Penalty Tribunal is to provide independent, impartial and well considered decisions based on fact and law in a way that is user-focused, efficient, timely, helpful and readily accessible.

The Traffic Penalty Tribunal has its headquarters in Manchester but operates across England (outside London) and Wales with its Adjudicators and Hearing Centre Supervisors working remotely and from hearing venues in over 60 locations. The Traffic Penalty Tribunal deals with some 18,000 plus appeals per annum and has 23 Adjudicators including a Chief Adjudicator, 20 Hearing Centre Supervisors and twenty-two staff.

It is the Adjudicator's function to independently decide the appeals and issue any directions required for the management of appeals.

The Traffic Penalty Tribunal comes under the supervision of the Administrative Justice and Tribunals Council which has established a Framework of Standards for Tribunals which states that tribunals should:

- Be independent
- Provide open, fair and impartial hearings
- Be accessible to users
- Focus on the needs of users
- Offer cost effective procedures
- Be properly resourced and organised
- Work with first tier decision makers to improve the "end to end" experience for the user.

Both parties, Councils and Appellants, have a right to a personal hearing, but alternatively may agree to have a telephone or postal hearing.

Technology is central to the whole operation with adjudicators accessing the tribunal's case management system remotely. The Tribunal actively encourages parties to correspond with the tribunal electronically and is also actively encouraging councils to provide the facility for appellants to appeal on line.

For more information

For more information about The Traffic Penalty Tribunal, members are requested to:

- Visit the tribunal's web site at www.trafficpenaltytribunal.gov.uk.
- Refer to the Adjudicators Annual Report – available through the web site.
- Contact the Head of Service who will be pleased to provide additional information or arrange a visit to the Manchester offices.
- Members are welcome to participate in any tribunal events e.g. council induction events or council user groups.

2. Background to the Joint Committees

The PATROL Adjudication Joint Committee, formerly the National Parking Adjudication Service Joint Committee, has been established to enable Councils having Civil Enforcement Area Orders to exercise their functions under Section 81 of the Traffic Management Act 2004 and Regulations 17 and 18 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007. These functions are exercised jointly with the other councils in accordance with the requirements of Regulation 16 of the Civil Enforcement of Parking Contraventions (England) General Regulations 2007.

The functions exercised by the PATROL Adjudication Joint Committee on behalf of its constituent councils are appointing independent adjudicators to the Traffic Penalty Tribunal (subject to the consent of the Lord Chancellor), providing these adjudicators with administrative staff and accommodation and providing hearing venues. **Its remit in relation to the Tribunal is limited to these matters.** The Joint Committee also undertakes such other associated functions as the Participating Authorities may lawfully arrange Joint Committee to perform as they from time to time consider appropriate.

The Agreement that regulates the setting up of the Joint Committee provides for one Representative for each constituent Council. Members of the Joint Committee need not be an “Executive Member” of their Council, but this is a matter for each Council to decide. If the nominated Representative cannot attend the meeting, provision is made for a named substitute to attend in his/her place.

In 2006 with the introduction of civil bus lane enforcement, it was agreed that there would be an integrated tribunal for parking and bus lane enforcement. However, there must be a separate Joint Committee, the Bus Lane Adjudication Service Joint Committee until such time as both areas of enforcement are governed by the same legislation i.e. the Traffic Management Act 2004. Where councils enforce bus lanes, they are required to become a member of the Bus Lane Adjudication Service Joint Committee.

3. Role of Joint Committee Members

The role of Members of the Joint Committee is to oversee the functions of The Traffic Penalty Tribunal as an Independent Tribunal.

There is not a role as such in respect of the parking/bus lane enforcement activities of the Local Authority they represent on the Joint Committee nor do members have the remit to discuss or influence Adjudicator decisions. The independence and integrity of the tribunal is paramount.

Typically agenda items will include:

- Appointment of adjudicators
- New member councils
- Budgets

- Budget monitoring
- Governance Matters
- Service Charges to user councils
- General progress and service standards
- Establishment of Sub Committees and Advisory Board.
- Other relevant items of interest to the Joint Committee in exercising its duties

Members elect a Chair, Vice Chair and in the case of the PATROL Adjudication Joint Committee, an Assistant Chair. Meetings are attended by the Chair of the Advisory Board, the Chief Adjudicator and Head of Service.

The Head of Service presents reports to the Joint Committee meetings on behalf of the Lead Officer in relation to administrative matters and the Chief Adjudicator presents on judicial matters, administrative responsibilities delegated to her within the scheme of delegation and the Annual Report of the Adjudicators.

4. Joint Committee Primary Objectives

The agreed primary objectives of the Joint Committees are the provision of:

- a) A fair adjudication service for Appellants including visible independence of adjudicators from the authorities in whose areas they are working.
- b) Consistency in access to adjudication.
- c) A cost effective and equitable adjudication service for all Parking Authorities and Bus Lane authorities in England and Wales.
- d) Flexibility to deal with a wide range of local authorities with varying levels of demand for adjudication.

In addition, the Joint Committee oversees any agreed PATROL initiatives e.g. commissioning Independent Reviews and the provision of public information.

5. Joint Committee Meetings

The annual meeting of the PATROL Adjudication Joint Committee takes place in June each year in the Birmingham area.

In addition the Joint Committee has established an Executive Sub Committee which meets twice a year in January and September, again in the Birmingham area. Where possible, Bus Lane Adjudication Joint Committee meeting are scheduled to coincide with the January, June and September meetings.

The PATROL Adjudication Joint Committee has also established an Executive Sub Committee (Wales) with specific reference to matters arising from the separate regulations for the civil enforcement of parking in England and Wales.

Members are encouraged to attend in order to broaden their appreciation of the functions of the Joint Committee. In addition to local authority councillors and officers, the Joint Committee meetings are attended by the Chief Adjudicator, Chair of the Advisory Board and Head of Service. Local authority officers are also welcome to attend.

Notices and papers in respect of Joint Committee meetings are issued by the Lead Authority. Please note that, in the interests of efficiency, papers will only be issued to councillors who have confirmed that they wish to attend.

In addition, prior to each meeting Democratic Services Departments within each member authority will be notified of the publication of papers and provided with a link to a web version for reference purposes. Papers for the meetings are posted on the PATROL web site.

<http://cpapers.patrol-uk.info/>

Any queries in relation to meetings can be addressed to the Head of Service.

6. Lead Authority and Lead Officer Role

Because the Joint Committees have no corporate status and cannot therefore contract, one of the constituent Councils has been appointed Lead Authority to enable goods and services to be provided on behalf of the Joint Committees. The responsibilities of the Lead Authority are set out in the Joint Committee's agreement and within the Scheme of Delegation. Initially Manchester has been appointed the Lead Authority.

The Joint Committees have delegated decision making in relation to the majority of day to day matters to a "Lead Officer" (initially the Lead Officer is the Chief Executive of Manchester) or to the Chief Parking Adjudicator/Bus Lane Adjudicator, depending on the subject matter. For the most part the Head of Service of Joint Committee Services acts on behalf of the "Lead Officer".

Except in the case of urgent business, the Lead Officer, in exercising the functions delegated to him, is required to consult with an officer working party (the Advisory Board) comprising the Lead Officer plus up to eleven people, including: seven representatives of local authorities with at least one representing: an English Authority; a Welsh Authority; a District Council; a County Council; a Unitary or Metropolitan Council and a bus lane enforcement council. Representatives of the Department for Transport and National Assembly for Wales have been appointed members of the Advisory Board. There are also two other representatives, a lay member with tribunal experience, and a representative from a motoring organisation. The Advisory Board will have considered all papers being recommended to the Joint Committee.

7. Joint Committee Agreement

The form of the PATROL Adjudication Joint Committee and Bus Lane Adjudication Service Joint Committee Agreements, the articles by which local authorities becomes a member of the Joint Committee, has been the subject of detailed negotiations between the initial parties. Their final form has been approved by leading Counsel. For this reason it is requested that joining councils do not seek to make changes to the terms of the Agreements.

Whilst the Agreements provide for the terms on which the Joint Committees are to operate, including making provision for the joining of new members and for the appointment of a Lead Authority, they do not set out in detail the amount of contributions required from member councils. These contributions are decided by the Joint Committee and are set at a level which should not be prohibitive to any council wishing to join the Joint Committee. These charges will be reviewed annually by the Joint Committees at their January meetings.

8. Public Information

The Joint Committee has approved the provision of common public information on civil enforcement on behalf of local authorities. A public information web site is in operation at www.patrol-uk.info. Information about the web site can be sought from Miles Wallace on 0161 242 5290 or mwallace@patrol-uk.info.

9. Feedback

I trust that this briefing note has been useful. If you have any comments on how this might be improved, please do not hesitate to contact me.

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